

Ernest Kim  
April 02, 2021

1

Page 1

UNITED STATES DISTRICT COURT  
WESTERN DIVISION OF TEXAS  
AUSTIN DIVISION

GIDDY HOLDINGS, INC.                     )  
  )  
VS.   ) CIVIL ACTION NO.  
  ) 1:20-CV-00434-LY  
ERNEST KIM                                     )

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DEPOSITION OF ERNEST KIM

APPEARING REMOTELY

FRIDAY, APRIL 2, 2021  
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ORAL DEPOSITION OF ERNEST KIM, produced as  
a witness at the instance of the Plaintiff, and duly  
sworn, was taken in the above-styled and -numbered cause  
on the 2nd day of April, 2021, from 9:03 a.m. to 10:08  
a.m., remotely before Natasha Duckworth, a CSR in and  
for the State of Texas, reported by machine shorthand at  
Collin County, Texas, pursuant to the Texas Rules of  
Civil Procedure and the provisions stated on the record  
or attached hereto.

Ernest Kim  
April 02, 2021

2 to 5

<p style="text-align: right;">Page 2</p> <p>1 REMOTE APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 MR. M. WILSON STOKER</p> <p>5 COKINOS YOUNG</p> <p>6 900 S. Capital of Texas Highway</p> <p>7 Las Cimas IV, Suite 425</p> <p>8 Austin, Texas 78746</p> <p>9 Telephone: 512.615.8573</p> <p>10 Facsimile: 512.610.1184</p> <p>11 E-mail: Wstoker@cokinoslaw.com</p> <p>12</p> <p>13 FOR THE DEFENDANT:</p> <p>14 MR. CASEY S. ERICK</p> <p>15 COWLES &amp; THOMPSON, P.C.</p> <p>16 901 Main Street</p> <p>17 Suite 3900</p> <p>18 Dallas, Texas 75202</p> <p>19 Telephone: 214.672.2000</p> <p>20 Facsimile:</p> <p>21 E-Mail: Cerick@cowlesthompson.com</p> <p>22</p> <p>23 ALSO PRESENT:</p> <p>24 Lauren Aldredge</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 REPORTED REMOTELY FROM COLLIN COUNTY, TEXAS</p> <p>2 FRIDAY, APRIL 2, 2021</p> <p>3</p> <p>4 THE VIDEOGRAPHER: We are now on the</p> <p>5 record. Participants should be aware that this</p> <p>6 proceeding is being recorded and, as such, all</p> <p>7 conversations held will be recorded unless there is a</p> <p>8 request and agreement to go off the record. Private</p> <p>9 conversations and/or attorney-client interaction should</p> <p>10 held outside the presence of the remote interface.</p> <p>11 For the purpose of creating a witness-only</p> <p>12 video recording, the witness is being spotlighted or</p> <p>13 locked on all video screens while in speaker view. We</p> <p>14 ask that the witness not remove the spotlight setting</p> <p>15 during the deposition as it may cause other participants</p> <p>16 to appear on the final video rather than just the</p> <p>17 witness. For anyone who doesn't want the witness's</p> <p>18 video to take up the large portion of your screen, you</p> <p>19 might click the gallery view button in upper right</p> <p>20 corner of the remote depo interface.</p> <p>21 This is the remote video-recorded</p> <p>22 deposition of Ernest Kim. Today is Friday, April 2nd,</p> <p>23 2021. The time is 2:03 p.m. GMT, 9:03 a.m. CST. We are</p> <p>24 here in the matter of Giddy Holdings, Inc. versus Ernest</p> <p>25 Kim. My name is Ciara Vij, remote video technician on</p>
<p style="text-align: right;">Page 3</p> <p>1 I N D E X</p> <p>2</p> <p>3 PROCEEDINGS</p> <p>4</p> <p>5 Appearances..... 2</p> <p>6</p> <p>7 Stipulations..... 5</p> <p>8</p> <p>9 ERNEST KIM</p> <p>10 Examination by Mr. Stoker..... 6</p> <p>11 Reporter's Certificate..... 41</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 behalf of US Legal Support located at 4801 Northwest</p> <p>2 Loop 410, Suite 375, San Antonio, Texas 78229. I'm not</p> <p>3 related to any party in this action, nor am I</p> <p>4 financially interested in the outcome.</p> <p>5 At this time will the reporter on behalf of</p> <p>6 US Legal Support please enter the statement for remote</p> <p>7 proceedings into the record.</p> <p>8 THE REPORTER: The attorneys participating</p> <p>9 in this deposition acknowledge that I am not physically</p> <p>10 present in the deposition room and that I will be</p> <p>11 reporting this deposition remotely. They further</p> <p>12 acknowledge that, in lieu of an oath administered in</p> <p>13 person, I will administer the oath remotely. This</p> <p>14 agreement is pursuant to the Texas Supreme Court Order</p> <p>15 Regarding the Covid-19 State of Disaster. The parties</p> <p>16 and their counsel consent to this arrangement and waive</p> <p>17 any objections to this manner of reporting.</p> <p>18 Please indicate your agreement by stating</p> <p>19 your name and your agreement on the record.</p> <p>20 MR. STOKER: Wilson Stoker on behalf of</p> <p>21 Giddy Holdings and we agree.</p> <p>22 MR. ERICK: Casey Erick on behalf of the</p> <p>23 defendant. Agreed.</p> <p>24 (The witness was sworn by court reporter.)</p> <p>25 ERNEST KIM,</p>

Ernest Kim  
April 02, 2021

6 to 9

<p style="text-align: right;">Page 6</p> <p>1 having been first duly sworn, testified as follows:</p> <p>2 EXAMINATION</p> <p>3 BY MR. STOKER:</p> <p>4 Q. Good morning, Mr. Kim.</p> <p>5 A. Morning.</p> <p>6 Q. Last time we met was I think December 18th,</p> <p>7 2020, and we went through some ground rules for the</p> <p>8 deposition. Do you recall those?</p> <p>9 A. Some of them, yes.</p> <p>10 Q. Okay. Can we proceed under the same rules</p> <p>11 today?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Is there anything that will prevent you</p> <p>14 from testifying truthfully today?</p> <p>15 A. No.</p> <p>16 Q. Have you ever been diagnosed with mental</p> <p>17 illness?</p> <p>18 A. No.</p> <p>19 Q. Have you ever seen a doctor for mental</p> <p>20 disorders?</p> <p>21 A. No.</p> <p>22 Q. Do you have memory issues?</p> <p>23 A. No.</p> <p>24 Q. Taking medication for memory issues?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 8</p> <p>1 A. I also looked at Yahoo as well.</p> <p>2 Q. Did you search your hard drive?</p> <p>3 A. Yeah, I did. I don't have any files from my</p> <p>4 previous companies.</p> <p>5 Q. Did you search in your house for hard -- for</p> <p>6 hard copies of documents?</p> <p>7 A. We don't -- I don't have any hard copies of</p> <p>8 Word documents.</p> <p>9 Q. Okay. Did you search for your severance</p> <p>10 agreement with General Motors?</p> <p>11 A. Yes, I have.</p> <p>12 Q. And you didn't find it?</p> <p>13 A. About client confidentiality, no.</p> <p>14 Q. Did you -- do you have your severance agreement</p> <p>15 from General Motors?</p> <p>16 A. Yes, I do. I sent it to my attorney.</p> <p>17 Q. Okay. You also testified on December 18th,</p> <p>18 2020, about filing a complaint with the Small Business</p> <p>19 Association. Do you recall that?</p> <p>20 A. Yes.</p> <p>21 Q. Were you able to locate that complaint?</p> <p>22 A. No.</p> <p>23 Q. You also testified about filing a complaint</p> <p>24 about Giddy with the Attorney General's office. Were</p> <p>25 you able to find that complaint?</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. Okay. When we last spoke, we went through a</p> <p>2 lot of back and forth about all these</p> <p>3 confidentiality/nondisclosure agreements that prevented</p> <p>4 you from testifying on several questions. Were you able</p> <p>5 to locate any nondisclosure agreements that you were</p> <p>6 testifying to?</p> <p>7 A. No.</p> <p>8 Q. Were you able to locate any confidentiality</p> <p>9 agreements that you --</p> <p>10 A. No.</p> <p>11 Q. -- testified about? No?</p> <p>12 A. No.</p> <p>13 Q. Were you able to locate any agreements with</p> <p>14 your former employers that prevents you from testifying</p> <p>15 today?</p> <p>16 A. No.</p> <p>17 Q. Were you able to locate any agreements that</p> <p>18 prevent you from testifying about former clients or</p> <p>19 vendors today?</p> <p>20 A. No.</p> <p>21 Q. Where did you search for agreements?</p> <p>22 A. I searched on -- in my e-mail inbox.</p> <p>23 Q. And what e-mail was that?</p> <p>24 A. Gmail.</p> <p>25 Q. Any other e-mails?</p>	<p style="text-align: right;">Page 9</p> <p>1 A. No.</p> <p>2 Q. Do you believe you filed a complaint with the</p> <p>3 Attorney General's office?</p> <p>4 A. Yes, I have.</p> <p>5 Q. But you have no record of that complaint?</p> <p>6 A. I -- I don't remember if they sent me anything.</p> <p>7 Q. Did you file it anonymously?</p> <p>8 A. Yes, I have.</p> <p>9 Q. What -- how did you go about filing that</p> <p>10 complaint?</p> <p>11 A. I believe it was online.</p> <p>12 Q. And you filled out a form online?</p> <p>13 A. It's been a long time, so I don't remember if</p> <p>14 it was a form or an e-mail. I don't remember.</p> <p>15 Q. What was the content of your complaint</p> <p>16 regarding Giddy Holdings?</p> <p>17 A. I -- to be honest, I don't remember. I don't</p> <p>18 remember the details.</p> <p>19 Q. Well, you would agree that filing a complaint</p> <p>20 with the Attorney General's office is a serious issue.</p> <p>21 A. Yes.</p> <p>22 Q. So there must have been something that was</p> <p>23 concerning to you, concerning enough to contact the</p> <p>24 Attorney General's office.</p> <p>25 A. Yes. The nature of -- I don't have the</p>

Ernest Kim  
April 02, 2021

10 to 13

<p style="text-align: right;">Page 10</p> <p>1 details, but the nature of the complaint is how they</p> <p>2 were -- they Giddy was trying to fudge numbers so that</p> <p>3 they're able to qualify for a larger PPP loan.</p> <p>4 Q. And you already testified last time that you</p> <p>5 were not responsible for filing anything with the Small</p> <p>6 Business Association on behalf of Giddy. Correct?</p> <p>7 A. After I declined to help out, I was not</p> <p>8 involved in any of them.</p> <p>9 Q. Well, I don't want to rehash all your</p> <p>10 testimony, but you were the marketing director for</p> <p>11 Giddy. Correct?</p> <p>12 A. Chief marketing officer.</p> <p>13 Q. Okay. And as chief marketing officer, it was</p> <p>14 not your job to submit documents for the PPP.</p> <p>15 A. Correct.</p> <p>16 Q. And you didn't do that on behalf of Giddy.</p> <p>17 A. No, I didn't.</p> <p>18 Q. And you weren't even employed when Giddy</p> <p>19 received its PPP loan. Correct?</p> <p>20 A. I was employed when they applied for the PPP</p> <p>21 loan.</p> <p>22 Q. But you were not -- you were not employed when</p> <p>23 they received whatever they received back?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. So you have no firsthand knowledge of</p>	<p style="text-align: right;">Page 12</p> <p>1 have on this complaint. Did you call the SBA to see if</p> <p>2 you can get a copy your complaint?</p> <p>3 A. No.</p> <p>4 Q. Did you do anything to try to get a copy of</p> <p>5 that complaint?</p> <p>6 A. No.</p> <p>7 Q. What was the content of that complaint?</p> <p>8 A. Similar as I mentioned.</p> <p>9 Q. Any reason you filed two complaints with the</p> <p>10 same content?</p> <p>11 A. Can you clarify? Two complaints with where?</p> <p>12 Q. So my understanding is that you have filed a</p> <p>13 complaint with the Attorney General's office.</p> <p>14 A. Yes.</p> <p>15 Q. And a separate one with the SBA.</p> <p>16 A. Yes, correct.</p> <p>17 Q. Okay. So that's two. And my understanding is</p> <p>18 they both have similar content.</p> <p>19 A. Correct.</p> <p>20 Q. But why did you file two complaints about the</p> <p>21 same incident?</p> <p>22 A. Because the SBA oversees all the fraudulent PPP</p> <p>23 applications.</p> <p>24 Q. Okay. Okay. We also talked a lot about your</p> <p>25 employment history.</p>
<p style="text-align: right;">Page 11</p> <p>1 what was submitted to the SBA for the PPP loan?</p> <p>2 A. I have the firsthand knowledge of what Brett</p> <p>3 said he was going to submit to get more money.</p> <p>4 Q. In the conference call that we talked about?</p> <p>5 A. Conference call and separate conversations with</p> <p>6 me.</p> <p>7 Q. Did you see a document that he submitted?</p> <p>8 A. No.</p> <p>9 Q. Did you watch him submit something?</p> <p>10 A. No.</p> <p>11 Q. And so this unanimous complaint was filed with</p> <p>12 the Texas Attorney General's office?</p> <p>13 A. I believe so.</p> <p>14 Q. And is there a separate anonymous complaint</p> <p>15 with the SBA?</p> <p>16 A. As with SBA or IC unit, it was not an unanimous</p> <p>17 complaint.</p> <p>18 Q. Okay. And you weren't able to locate a copy of</p> <p>19 that?</p> <p>20 A. No.</p> <p>21 Q. Did you contact SBA about that?</p> <p>22 A. No. There's a complaint or filing or file</p> <p>23 number I think I received and gave it to my attorney.</p> <p>24 Q. Okay. So, you know, it's been three-and-a-half</p> <p>25 months and we clearly asked for whatever information you</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Yes.</p> <p>2 Q. You know, income history. And I want to just</p> <p>3 clarify some -- some of your involvement in different</p> <p>4 areas so that I'm clear on this.</p> <p>5 A. Okay.</p> <p>6 Q. So one company that your name comes up with is</p> <p>7 called Cootdiu. Are you familiar --</p> <p>8 A. Correct.</p> <p>9 Q. What is Cootdiu?</p> <p>10 A. It's a start-up company similar to Yelp or</p> <p>11 Glescor.</p> <p>12 Q. Okay. And when did you -- are you an owner of</p> <p>13 that, a founder of that?</p> <p>14 A. I'm a cofounder of it.</p> <p>15 Q. When did you start that?</p> <p>16 A. August of last year.</p> <p>17 Q. Of 2020?</p> <p>18 A. Yes.</p> <p>19 Q. All right. And you have partners?</p> <p>20 A. Yes.</p> <p>21 Q. Who are they?</p> <p>22 A. Alex -- I cannot pronounce his name. He's from</p> <p>23 Ukraine and we have Edward from Thailand.</p> <p>24 Q. Okay. Have you received any income from this</p> <p>25 business?</p>



Ernest Kim  
April 02, 2021

30 to 33

<p style="text-align: right;">Page 30</p> <p>1 Q. I have on the screen what I believe was marked 2 as Exhibit 2 in our prior deposition. 3 A. Yes. 4 Q. And this is your resumé. You agree? 5 A. Yes. 6 Q. Okay. And we had some discussion about lots of 7 this, but what I'd like to talk about right now is the 8 "Achievement" section that we talked about last time. 9 A. Sure. 10 Q. So in here, you have several representations 11 about prior work and I wanted to talk just about a 12 couple to see if we can identify the information that we 13 were trying to -- trying to get at last time. 14 A. Sure. 15 Q. At the bottom of this "Achievement" section, 16 which I have pulled up on the screen, says, "interim 17 chief marketing officer for a \$1 billion client." Do 18 you see that? 19 A. Yes. 20 Q. So who was the \$1 billion client? 21 A. I believe it was American Eagle. 22 Q. The retailer? 23 A. Yes. 24 Q. And when did do you work for them? 25 A. I believe it was sometime in 2017 when we did</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. And your group worked with American Eagle? 2 A. Yes. 3 Q. How long did that relationship last? 4 A. Several months. 5 Q. Okay. And your title was chief marketing 6 officer with them? 7 A. No. We work on a project. So the nature of 8 work is sometimes very often when the chief marketing 9 officer is not there, we play the role of putting the 10 strategy in place, building out the road map and so 11 forth. 12 Q. You as an individual were not the chief 13 marketing officer? 14 A. I was the lead for the marketing work that we 15 were doing. So they asked me to play that role. 16 Q. And what did you do to play that role? 17 A. Do what was initially designed, asked us to do. 18 Look at the overall marketing spent, identify areas 19 where there could be improvements, and make 20 recommendations and also help them out with CMO search. 21 Q. Okay. The next line under that says, "interim 22 chief marketing officer for a \$3.8 billion client." 23 A. Yes. 24 Q. Who is that client? 25 A. Trukindo in Indonesia.</p>
<p style="text-align: right;">Page 31</p> <p>1 their marketing assessment. 2 MR. ERICK: Hold on a sec. Can everybody 3 hear me? 4 THE WITNESS: Yes. 5 MR. ERICK: Okay. Were there questions 6 asked when I wasn't online? 7 MR. STOKER: No. 8 MR. ERICK: Just this first one? 9 MR. STOKER: Correct. 10 MR. ERICK: Okay. All right. I got kicked 11 off for some reason. 12 MR. STOKER: Yeah, we waited for you. 13 MR. ERICK: Okay, great. Okay. 14 Q. (BY MR. STOKER) So Mr. Kim, we were talking 15 about American Eagle 2017. Were you -- you said we. 16 Who is "we?" 17 A. A company that I was working for Booz &amp; 18 Company. We do -- we went and did marketing assessment 19 shortly after their CEO -- the chief marketing officer 20 left. 21 Q. Okay. So American Eagle had an agreement with 22 Booz &amp; Company? 23 A. Correct. No, PwC. 24 Q. So at that point it was PwC? 25 A. Correct.</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. What did you do for them? 2 A. They never had a marketing organization so we 3 were building that marketing organization. So similar 4 role. I was in charge of building a marketing 5 organization, building out capabilities, building 6 processes and tasks, building the marketing 7 organizational structure, KPIs. So I ended up playing 8 the CMO role during that project -- 9 Q. When was -- 10 A. -- until they assigned -- until they assigned a 11 proper CMO. 12 Q. Okay. And when -- when did you have this 13 relationship? 14 A. From 2011 until 2015. 15 Q. You as an individual were the interim chief 16 marketing officer? 17 A. I was asked to play that role, yes. 18 Q. Were you given that title? 19 A. Given the title so that company is made an 20 announcement, no. 21 Q. You were a consultant? 22 A. Yes. 23 Q. Not an employee? 24 A. Correct. 25 Q. You were not an employee of American Eagle?</p>

Ernest Kim  
April 02, 2021

34 to 37

<p style="text-align: right;">Page 34</p> <p>1 A. No.</p> <p>2 Q. Was that relationship the most recent one with</p> <p>3 the \$3.8 billion client with Booz &amp; Company or PwC?</p> <p>4 A. I think it was Accenture if I remember</p> <p>5 correctly.</p> <p>6 Q. So at the time you were an employee of</p> <p>7 Accenture?</p> <p>8 A. Yes.</p> <p>9 Q. Where your title was head of -- I don't know</p> <p>10 it.</p> <p>11 A. ASEAN.</p> <p>12 Q. ASEAN product sales and marketing?</p> <p>13 A. Yes.</p> <p>14 Q. But that was part of your job at Accenture?</p> <p>15 A. Yes.</p> <p>16 Q. Interim head of marketing for a \$3.3 billion</p> <p>17 client is the next line and that was in 2013. What</p> <p>18 client was that?</p> <p>19 A. I actually do not remember which client that</p> <p>20 is. My assumption is that it's a Miwom. It's a company</p> <p>21 called Miwom.</p> <p>22 Q. And that -- that role was part of your job at</p> <p>23 Accenture again?</p> <p>24 A. Yes.</p> <p>25 Q. And were you given the title with that company,</p>	<p style="text-align: right;">Page 36</p> <p>1 three, we consider them to be lagging. So how do you</p> <p>2 bring them to come back to the top consideration.</p> <p>3 Q. And when you successfully turn them around,</p> <p>4 that's an achievement.</p> <p>5 A. Correct.</p> <p>6 Q. So is it fair to say that you're saying in this</p> <p>7 line to someone who understands marketing that you've</p> <p>8 done that for 16 clients?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Are you able to recall any of those 16</p> <p>11 clients that you did that for?</p> <p>12 A. The Trukindo is one of them. Intel is one of</p> <p>13 them. I worked on Levis a long time ago, so that's</p> <p>14 another one. Now they are considered, you know, a lot</p> <p>15 more recognizable, especially in international markets,</p> <p>16 yes.</p> <p>17 Q. All right. Did you receive any response to the</p> <p>18 SBA complaint that you filed?</p> <p>19 A. I received a phone call with an in-depth</p> <p>20 interview and that was it.</p> <p>21 Q. Was that around the same time you filed the</p> <p>22 complaint?</p> <p>23 A. Maybe a week after, maybe two weeks after. I</p> <p>24 don't -- I don't know the exact time when they called.</p> <p>25 Q. You don't have that person's information?</p>
<p style="text-align: right;">Page 35</p> <p>1 head of marketing?</p> <p>2 A. No.</p> <p>3 Q. Were you an employee of that company?</p> <p>4 A. No.</p> <p>5 Q. Do you remember the 2.2 billion client from</p> <p>6 2012?</p> <p>7 A. I believe that was Visa if I remember</p> <p>8 correctly.</p> <p>9 Q. Okay. And were you an employee of Visa?</p> <p>10 A. No.</p> <p>11 Q. You were working as an Accenture employee at</p> <p>12 that time.</p> <p>13 A. Correct.</p> <p>14 Q. A little bit above in the "Achievement"</p> <p>15 section, there is a line that says "16 clients with</p> <p>16 successful turnaround brands?"</p> <p>17 A. Yes.</p> <p>18 Q. Can you, first of all, explain to me what a</p> <p>19 successful turnaround brand is?</p> <p>20 A. Successful meaning company is -- their brand</p> <p>21 value is going down or a brand is no longer capturing</p> <p>22 what we call cap of mind when somebody wants to -- for</p> <p>23 example, let's say you want to buy a PC. What brand</p> <p>24 comes to your mind? You might say Dell, Lenovo, and so</p> <p>25 forth. So when company is no longer considered top</p>	<p style="text-align: right;">Page 37</p> <p>1 A. He said he's -- he went by -- he said he's a</p> <p>2 special agent bearer.</p> <p>3 Q. Did he give you a badge number or a card or any</p> <p>4 information?</p> <p>5 A. No.</p> <p>6 Q. How about with the Attorney General's office?</p> <p>7 A. No, no response.</p> <p>8 Q. Never got any -- any confirmation that you</p> <p>9 filed or anything?</p> <p>10 A. When you submit, there was a confirmation on</p> <p>11 the website, but no.</p> <p>12 Q. You don't have a confirmation e-mail?</p> <p>13 A. I don't think so.</p> <p>14 Q. Did you search for that?</p> <p>15 A. Yeah, I did.</p> <p>16 Q. All right. So in the last few months we've</p> <p>17 asked for some witness contact information that you</p> <p>18 mentioned and I just want to take this opportunity to go</p> <p>19 through who you've reached out to or talked to get their</p> <p>20 information. Eric Taylor. Have you spoken with Eric</p> <p>21 about this case?</p> <p>22 A. Yes. I sent mailing address to my attorney.</p> <p>23 Q. Great. Thank you. How about Jordy Aramani?</p> <p>24 A. Yes. He -- I also provided during a break his</p> <p>25 e-mail -- his mailing address.</p>